

JA2MMAC1

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1 statements, it is your recollection that controls.

2 For the same reasons, you are not to consider a
3 lawyer's questions as evidence. It is the witnesses' answers
4 that are evidence, not the lawyers' questions.

5 Finally, any statements that I may have made do not
6 constitute evidence. It is for you alone to decide the weight,
7 if any, to be given to the testimony you have heard and the
8 exhibits you have seen.

9 Generally, as I mentioned at the start of the case,
10 there are two types of evidence that you may consider in
11 reaching your verdict. One type of evidence is direct
12 evidence. Direct evidence is testimony by a witness about
13 something that he or she knows by virtue of his or her own
14 senses, something he or she has seen, felt, touched, or heard.
15 For example, if a witness testified that when he left his house
16 this morning it was raining, that would be direct evidence as
17 to the weather.

18 Circumstantial evidence is evidence from which you may
19 infer the existence of certain facts. To use the same example
20 that I gave you two weeks ago at the start of the trial, assume
21 that when you came into the courthouse this morning the sun was
22 shining and it was a nice day. Let's assume that the courtroom
23 blinds were drawn and you couldn't look outside. As you were
24 sitting here someone walked in with an umbrella which was
25 dripping wet. Then a few minutes later another person entered

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1 with a wet raincoat. Now, you cannot look outside the
2 courtroom and you cannot see whether or not it is raining, so
3 you have no direct evidence of that fact. But on the
4 combination of facts that I have asked you to assume, it would
5 be reasonable and logical for you to conclude that it had been
6 raining.

7 That is all there is to circumstantial evidence. You
8 infer on the basis of reason and experience and common sense
9 from one established fact the existence or nonexistence of some
10 other fact.

11 As you can see, the matter of drawing inferences from
12 facts in evidence is not a matter of guesswork or speculation.
13 An inference is a logical, factual conclusion which you might
14 reasonably draw from other facts that have been proven. Many
15 material facts, such as what a person was thinking or
16 intending, can rarely be proved by direct evidence.

17 Circumstantial evidence is as valuable as direct
18 evidence. The law makes no distinction between direct and
19 circumstantial evidence, but simply requires that before
20 convicting a defendant, the jury must be satisfied of a
21 defendant's guilt beyond a reasonable doubt, based on all the
22 evidence in the case, circumstantial and direct.

23 There are times when different inferences may be drawn
24 from the evidence. The government asks you to draw one set of
25 inferences. A defendant may ask you to draw another. It for